

Amendment No. 4 to SB8001

Henry
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AMEND Senate Bill No. 8001

House Bill No. 8002

By deleting in their entirety sections 3 through 17, 19 through 23, and 27, of the bill as introduced.

AND FURTHER AMEND, by deleting section 18 of the bill as introduced in its entirety and substituting instead the following:

SECTION 18. Tennessee Code Annotated, Section 67-6-702(a) is amended by adding the following new sentence: "The rate of tax levied on food or food products for human consumption shall be the same rate levied on all other goods and services pursuant to this part, notwithstanding the exemption from tax on food or food products for human consumption pursuant to the provisions of title 67, chapter 6, part 3."

AND FURTHER AMEND, in section 26 of the bill as introduced, in the amendatory language to section 67-6-103(a)(1), by deleting "25.9759%" and substituting instead "28.8412%".

AND FURTHER AMEND, in section 26 of the bill as introduced, in the amendatory language to section 67-6-103(a)(3)(A), by deleting "7.3040%" and substituting instead "5.0515%".

AND FURTHER AMEND, in section 26 of the bill as introduced, in the amendatory language to section 67-6-103(a)(3)(B)(i), by deleting "6.0480%" and substituting instead "4.8317%".

AND FURTHER AMEND, in section 26 of the bill as introduced, in the amendatory language to section 67-6-103(a)(3)(E), by deleting "6.0480%" and substituting instead "5.0515%".

AND FURTHER AMEND, in section 44 of the bill as introduced, in the section designated 67-2-201, by deleting "The Tennessee Flat Tax Law of 1999" and substituting "The Tennessee Income Tax Law of 1999".

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AND FURTHER AMEND, in section 44 of the bill as introduced, in subsection (a) of the section designated 67-2-202, by adding the following new subdivision after subdivision (3) and by renumbering the remaining subdivisions:

() "Farming" means the growing of crops, nursery products, timber or fibers, or the production of livestock, or the keeping of animals for the production of products such as milk, eggs, wool or hides, for sale and use or consumption off the premises.

AND FURTHER AMEND in section 44 of the bill as introduced, in the section designated 67-2-204, by deleting subsection (a) in its entirety, substituting the following new subdivisions, and redesignating the remaining subdivisions accordingly:

(a) There is hereby levied on each resident single individual, resident married individual filing separately, resident head of household, resident estate, and resident trust, a tax in accordance with the following schedule:

<u>Tennessee taxable income</u>	<u>Rate of tax</u>
Not over \$15,000	1%
Over \$15,000 but not over \$30,000	\$150 plus 3% of the amount over \$15,000
Over \$30,000	\$600 plus 5% of the amount over \$30,000.

(b) There is hereby levied on resident married persons filing jointly, and on each resident individual who files as a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, a tax in accordance with the following schedule:

<u>Tennessee taxable income</u>	<u>Rate of tax</u>
Not over \$30,000	1%

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Over \$30,000 but not over \$60,000

\$300 plus 3% of the
amount over \$30,000

Over \$60,000

\$1,200 plus 5% of the
amount over \$60,000.

AND FURTHER AMEND in section 44 of the bill as introduced, by deleting subsections (b) through (f) of the section designated 67-2-206, as substituting instead the following:

(b) Single individuals and married individuals filing separately are entitled to an exemption of fifteen thousand dollars (\$15,000).

(c) Married persons filing jointly, and persons who file as a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, are entitled to a single exemption of thirty thousand dollars (\$30,000).

(d) Individuals filing as heads of household are entitled to an exemption of twenty-two thousand dollars (\$22,000).

(e) For each dependent not referred to in subsections (b), (c) or (d), there is an additional exemption of two thousand five hundred dollars (\$2,500) per dependent.

(f) Each person filing a return, whose 65th birthday occurred anytime during or before the tax year, is entitled to an additional exemption of two thousand five hundred dollars (\$2,500).

AND FURTHER AMEND, in section 44 of the bill as introduced, in subsection (c) of the section designated 67-2-207, by deleting subdivision (6) and substituting instead the following:

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(6) Any net long-term capital gain arising from the sale of real or tangible personal property, situated in Tennessee, used directly and primarily for farming purposes.

AND FURTHER AMEND, in section 44 of the bill as introduced, in subdivision (c)(2) of the section designated 67-2-209, by deleting subdivision (E) and substituting instead the following:

(E) Any net long-term capital gain arising from the sale of real or tangible personal property, situated in Tennessee, used directly and primarily for farming purposes.

AND FURTHER AMEND by deleting section 60 of the bill as introduced in its entirety and substituting instead the following:

SECTION 60. Tennessee Code Annotated, Section 67-4-2007, is amended by adding the following new subsections:

() For purposes of the excise tax levied by this part, a business entity shall be classified as a corporation, partnership, or other type business entity, consistent with the way the entity is classified for federal income tax purposes. A limited liability company or other business entity which is disregarded as an entity separate from its owner for federal income tax purposes shall be similarly disregarded for excise tax purposes and included in the excise tax return filed by the owner provided that all requirements for exemption under section 67-4-2008(1) are satisfied. A limited liability company or other business entity which is owned by an individual and is disregarded as a separate entity from its owner for federal income tax purposes shall be similarly disregarded for excise tax

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purposes and treated as an individual for purposes of the tax imposed by chapter 2 of this title. A limited liability company or other business entity which is wholly owned by a single partnership, or entity treated as a partnership, and is disregarded as a separate entity from its owner for federal income tax purposes shall be similarly disregarded for excise tax purposes and treated as its single member for purposes of the excise tax and the tax imposed by chapter 2 of this title.

() Except for unitary groups of financial institutions and business entities that have been required or permitted to file excise tax returns on a combined, consolidated or separate accounting basis under Section 67-4-2014, each taxpayer shall be considered a separate and single business entity for Tennessee excise tax purposes and shall file its Tennessee excise tax return on a separate entity basis reflecting only its own business activities even though it may have filed a consolidated federal income tax return with other members of its unitary group. The federal taxable income computed on a separate entity basis excise tax return and subject to adjustments set forth in Section 67-4-2006 shall be the same federal taxable income that would have been computed on the taxpayer's federal return if it had been filed on a separate entity basis rather than a consolidated basis.

() Notwithstanding any provision of law to the contrary, qualified subchapter S subsidiaries with an election in effect under Section 1361(b)(3)(B)(ii) of the Internal Revenue Code and qualified REIT subsidiaries

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described in Section 856(i) of said Code, which are disregarded for federal income tax purposes and are included in the federal tax return filed by the owner, shall be disregarded for Tennessee excise tax purposes and shall be included in the excise tax return filed by the owner. In the event that a corporation is only partly owned, directly or indirectly, by a real estate investment trust, such entity shall be considered a separate entity from its owners for purposes of the tax imposed by this part but shall be subject to the excise tax only to the extent that it is owned by entities that are not real estate investment trusts. Such an entity shall file an excise tax return and shall compute its net earnings (losses) for excise tax purposes on all its business operations; provided that the excise tax base shall be computed by multiplying the net earnings (losses) so computed by the percentage of ownership by entities that are not real estate investment trusts.

AND FURTHER AMEND by deleting section 61 of the bill as introduced in its entirety and substituting instead the following:

SECTION 61. Tennessee Code Annotated, Section 67-4-2008, is amended by deleting subitems (1) through (7) in their entirety and adding the following new subitems.

(1)(A) Notwithstanding any provision of law, except this section, to the contrary,

(1) any subchapter S corporation,

(2) any limited liability company, professional limited liability company, limited partnership, registered limited liability partnership,

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professional registered limited liability partnership, or other entity that is treated as a partnership for federal income tax purposes, or

(3) any limited liability business entity (except for qualified subchapter S subsidiaries with an election in effect under Section 1361(b)(3)(B)(ii) of the Internal Revenue Code and qualified REIT subsidiaries described in Section 856(i) of such Code) which is disregarded as an entity separate from its owner for federal income tax purposes and which has as its single owner a person subject to the tax under this part or a not-for-profit entity,

shall be exempt from the excise tax levied by this part; provided, however, that each such entity doing business in Tennessee that has an out-of-state corporate member or partner (other than a person exempt from the tax levied by this part) who would not otherwise be subject to the Tennessee excise tax shall, for each taxable period, either:

(i) timely file with the commissioner an agreement as provided in subdivisions (B) and (C) of this item, or

(ii) notwithstanding any other provision of law to the contrary, timely file an excise tax return and pay the tax levied by this part on a base consisting of all net income passed-through to the out-of-state corporate owner for federal income tax purposes. For this purpose, all applicable provisions of this part shall apply except that, the excise tax base shall be computed as set forth in this subdivision.

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(B) An agreement under this subdivision shall be an agreement, on a form as may be prescribed by the commissioner, executed by the out-of-state corporate member or partner of a limited liability company, partnership, or other entity to:

(i) file a Tennessee excise tax return in the same manner as is required of any out-of-state corporation doing business in Tennessee and to compute and timely pay the excise tax levied by this part, and

(ii) to be subject to personal jurisdiction in this state for purposes of the collection of the excise tax and any penalty or interest related thereto.

(C) Any such entity that timely files an agreement as provided in subdivision (B) with respect to an out-of-state corporate member or partner for a taxable period shall be considered to have timely filed such an agreement for each subsequent taxable period. Any such entity that does not timely file such an agreement for a taxable period shall not be precluded from timely filing an agreement for subsequent taxable periods.

(D) An agreement as provided by subdivisions (B) and (C) of this item shall be considered timely filed for a tax period and for all subsequent tax periods if it is filed on or before the due date, including extensions, of the required excise tax return.

(E) Any excise tax paid for a tax year by a limited liability company, partnership or other entity pursuant to this subsection shall be considered a

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payment by the out-of-state corporate member or partner on account of the tax imposed by this part for such tax year and shall be recoverable, by off-set or otherwise, from the member or partner on whose behalf it was made.

(F) In the event that a limited liability company, partnership or other entity has more than one out-of-state corporate partners or members who elect to file an excise tax return under the provisions of this item, upon receipt of a written request properly executed by each out-of-state corporate member or partner, the commissioner may permit the corporations involved to file together a single excise tax return.

(G) For purposes of this item, “member” or “partner” includes any out-of-state corporation which, directly or indirectly through one or more other limited liability companies, partnerships or other entities, has an ownership interest in the limited liability company, partnership or other entity doing business in Tennessee.

(2) Entities described in section 67-4-2105(b).

AND FURTHER AMEND by deleting section 70 of the bill as introduced in its entirety and substituting instead the following:

SECTION 70. Tennessee Code Annotated, Section 67-4-2105, is amended by adding immediately after subsection (a) the following new subsections (b), (c), (d) and (e), and relettering the remaining subsections accordingly:

(b) There shall be exempt from the payment of the franchise tax levied under this part the following:

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(1) Any corporation organized under the laws of the state of Tennessee whose sole expressed corporate purpose is for the furthering of industrial development in communities throughout the state, and doing matters related thereto, and whose stockholders receive no income other than interest or dividends on money invested in such corporation for constructing industrial buildings and whose officers receive no compensation;

(2) Corporations organized for the purpose of erecting, owning or operating a common meeting place for more than one (1) Masonic Lodge, more than one (1) Lodge of Odd Fellows, or similar lodges, and which corporations could obtain general welfare charters, and in which corporations all the stock is owned by lodges participating in the common temple or meeting place, regardless of the type of charter held by such operating corporations, except on income received by such corporations as rentals for use for commercial purposes;

(3) Any regulated investment company or investment fund organized as a unit investment trust taxable as a grantor trust under 26 U.S.C. §§ 671-677; provided, that not less than seventy-five percent (75%) of the value of the investments of such regulated investment company or unit investment trust shall be in any combination of bonds of the United States, state of Tennessee, or any county or any municipality or political subdivision of the state, including any agency, board, authority or commission of the state or its subdivisions;

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(4) Federal credit unions, credit unions organized under the laws of other taxing jurisdictions, production credit associations organized under 12 U.S.C. § 2071 et seq., or merged associations under 12 U.S.C. § 2279c-1, production credit associations organized under title 56, chapter 4, part 4, or investment companies organized under title 56, chapter 4, part 3;

(5) Venture capital funds; provided, that for purposes of this part, a venture capital fund is a limited liability company, limited liability partnership, or limited partnership, formed and operated for the exclusive purpose of buying, holding and/or selling securities, including debt securities, primarily in non-publicly traded companies on its own behalf and not as a broker, and the capital of which fund is primarily derived from investments by entities and/or individuals which are neither related to nor affiliated with the fund. For purposes of this subdivision, the following provisions shall apply:

(A) I.R.C. Section 267(b) and (f) and any federal regulations applicable thereto, as they may be amended from time to time, shall be used to determine whether entities and/or individuals are “related”.

(B) “Affiliated” means entities that are part of an affiliated group as defined in I.R.C. Section 1504(a) and any applicable federal regulations thereto, as they may be amended from time to time.

(C) “Primarily,” as used in this subdivision, means over fifty percent (50%).

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(D) "Non-publicly traded companies" means any business entity that is not a "publicly traded company", as defined by subdivision (E) below.

(E) A "publicly traded company" is any company that is traded on:

(i) a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934 or exempted from registration under such Act by 15 U.S.C. 78f because of the limited volume of transactions;

(ii) a foreign securities exchange operating under principles analogous to a national securities exchange;

(iii) a regional or local exchange;

(iv) an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise; or

(v) on a secondary market or the substantial equivalent thereof, if taking into account all of the facts and circumstances, the owners are readily able to buy, sell or exchange their ownership interest in a manner that is comparable, economically, to trading on an exchange.

(6) Limited liability companies, limited partnerships, and limited liability partnerships if all of the following criteria are met:

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(A) At least 66.67% of the activity of the entity is either farming or the holding of one or more personal residences where one or more of the members or partners reside. For purposes of this subdivision, the following provisions shall apply:

(i) "Farming" is the growing of crops, nursery products, timber or fibers, such as cotton, for human or animal use or consumption or the keeping of horses, cattle, sheep, goats, chickens or other animals for human or animal use or consumption or the keeping of animals that produce products, such as milk, eggs, wool or hides for human or animal use or consumption.

(ii) For this purpose, the activity of the entity shall be considered farming only if at least 66.67% of its income, including capital gains from the sale of assets used in farming, is derived from farming and at least 66.67% of its assets, valued at original cost to the entity, are used by the owner or by the owner's lessee or sharecropper for farming. In the event that an asset's original cost to the entity cannot be determined, or there is no original cost to the entity, for purposes of this subdivision, the property shall be valued at its fair market value at the time of acquisition by the entity.

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(iii) A “personal residence(s)”, as the term is used in subdivision (A) above, shall include acreage contiguous to the dwelling.

(iv) Any entity that qualifies for franchise tax exemption under this subdivision (6), because of farming activity or because property has been used as a personal residence for at least five years, shall remain exempt for one year from the end of the calendar year in which it ceases to qualify for the exemption, but only with regard to property and transactions related to property that it held at the time that it last qualified for the exemption. Net worth resulting from sales and other transactions involving real, tangible, or intangible property acquired by the entity after it ceased to qualify for the exemption (“after-acquired property”) shall be subject to the franchise tax. After-acquired property shall be included in the entity’s franchise tax minimum measure. If the entity computes an apportionment formula, any after-acquired property and any compensation or gross receipts related to such property shall be included in the appropriate factors of such formula.

(v) In order to qualify as a personal residence, the dwelling unit must be occupied for personal use by partners or members of the entity for more days than it is rented to others who

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are not partners or members of the entity. For purposes of this subdivision, the provisions of I.R.C. Section 280A(d)(2) shall be used to define "personal use".

(B) At least ninety-five percent (95%) of the voting rights, capital interest or profits of the entity are owned either by natural persons who are relatives of one another or by trusts for their benefit. For this purpose, natural persons shall be considered "relatives" if, by blood or adoption, they are descended from a common ancestor and their relationship with each other is that of a first (1st) cousin or closer than that of a first (1st) cousin, or if they are spouses of one another.

(7) Limited liability companies, limited liability partnerships or limited partnerships existing on May 1, 1999, on which date and at all times thereafter met all of the following criteria:

(A) were at least ninety-eight percent (98%) owned by corporate members of an affiliated group as defined in 26 U.S.C. Section 1504(a);

(B) were formed and operated for the exclusive purpose of acquiring notes from members of such affiliated group, accounts receivable, installment sale contracts, and similar evidence of indebtedness obtained in the ordinary course of business by one or more members of such affiliated group;

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(C) the assets of which directly or indirectly serve as security for third party borrowings or securitized indebtedness acquired by third parties;

(D) at least eighty percent (80%) of the income therefrom included in the income of a corporation doing business in Tennessee; and

(E) such income is subject to the applicable allocation and apportionment rules as found in this part.

(8) Limited liability companies, limited partnerships and limited liability partnerships, all of whose members or partners are fully liable for the debts, obligations and liabilities of the entity, as provided in subsections (c), (d) and (e), and who have filed appropriate documentation to that effect with the secretary of state on or before the first day of the taxable year; provided, however, for tax years beginning before January 2, 2000, such documentation shall be filed on or before April 15, 2000; and further provided that this item (9) shall not apply to any limited liability company, limited partnership or limited liability partnership which is owned, in whole or in part, directly or indirectly, by a corporation other than a not-for-profit corporation. If an additional partner or member is admitted to the entity, such partner or member must file the appropriate documentation with the secretary of state within sixty days of such person's admission. For purposes of this item, partners or members may be "fully liable" even though one or more persons or individuals dealing with the partnership or limited liability company

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have by contract agreed to limit their claims against one or more partners or members or against the partnership or limited liability company.

(9) An entity which satisfies both of the following requirements:

(A) It is classified as a partnership or trust in accordance with the provisions of 26 USC Section 7701 and the federal regulations and rulings promulgated thereunder or has elected to be treated as a real estate mortgage investment conduit (REMIC) under 26 USC Section 860D or as a financial asset securitization investment trust (FASIT) under 26 USC Section 860L; and

(B) The sole purpose of the entity, except for foreclosures and dispositions of the assets of foreclosures, is the asset-backed securitization of debt obligations, such as first or second mortgages, including home equity loans, trade receivables (whether an open account or evidenced by a note or installment or conditional sales contract), obligations substituted for trade receivables, credit card receivables, personal property leases treated as debt for purposes of the Internal Revenue Code of 1986, as amended, automobile loans or similar debt obligations. The term "trade receivables" as used in the above sentence is defined as obligations arising from the sale of inventory in the ordinary course of business.

(c)(1) Notwithstanding any provision of law to the contrary, the certificate of a limited partnership may provide that one (1) or more specifically identified limited

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partners, as named in the certificate of limited partnership, will be personally liable for all of the debts, obligations and liabilities of the limited partnership to the same extent as a general partner, and if so, each such specifically identified limited partner shall be liable to the same extent as a general partner in a general partnership; provided, that:

(A) In order to be effective, each limited partner so identified must sign the certificate of limited partnership, or an amendment to the certificate of limited partnership containing this provision and such signature must be notarized. The certificate or amendment must contain the following two sentences in all capitalized letters: "THE EXECUTION AND FILING OF THIS DOCUMENT WILL CAUSE SUCH LIMITED PARTNER TO BE PERSONALLY LIABLE FOR THE DEBTS AND OBLIGATIONS OF THE LIMITED PARTNERSHIP TO THE SAME EXTENT AS A GENERAL PARTNER. PLEASE CONSULT YOUR ATTORNEY."

The amendment or certificate may provide that it is only effective if all limited partners make and maintain such an election. In such case the certificate of limited partnership must affirmatively identify each general and limited partner of the limited partnership and state that such persons constitute all partners.

(B) Each such limited partner shall continue to be personally liable for all of the debts, obligations and liabilities of the partnership to the same extent as a general partner would be until (i) such limited partner withdraws from the partnership and the withdrawal is recorded with the certificate of limited partnership at the Secretary of State's Office or (ii) the certificate of limited partnership is amended to strike such limited partner's name as a limited partner

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electing joint and several liability or, if the certificate of limited partnership provides that all limited partners must elect joint and several personal liability for all of the debts, obligations and liabilities of the limited partnership if any limited partners are to be so liable, an amendment striking one limited partner who continues to be a limited partner shall strike all limited partners. Such document must be executed by the limited partner desiring to cease being so liable and promptly delivered to the general partner(s) and all other partners who are identified in the certificate of limited partnership as being jointly and severally personally liable for the debts, obligations and liabilities of the limited partnership.

(C) Such limited partnership must have a written partnership agreement that sets forth in reasonable detail (i) the purpose of the limited partnership, (ii) the identity of each general partner; (iii) the scope of authority within the limited partnership of one or more of the general partners to incur debt or other obligations in the absence of limited partner approval; (iv) the fact that each limited partner electing to have joint and several liability will be liable for the all debts and obligations of the limited partnership however arising (contract, tort, or otherwise) or from the actions of the general partner(s) or other limited partners in furtherance of the limited partnership's business or other activity; (v) the fact that each limited partner may revoke his or her election to have joint and several unlimited liability and remain a limited partner; and (vi) the terms and conditions under which one or more general partners may be removed or the limited partnership dissolved and terminated.

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(2) A limited partner who is identified in the certificate of limited partnership as being personally liable, always has the power but not necessarily the right, to revoke the election for joint and several liability for the limited partnership's debts and obligations by filing an amendment to the certificate of limited partnership stating that such limited partner revokes his or her election to be personally liable and will not be liable for any future debts, obligations and liabilities of the limited partnership and will not be liable for any future debts, obligations and liabilities of the partnership. Such amendment to the certificate shall be effective immediately except as provided in item (3) below.

(3) An amendment to the certificate of limited partnership filed pursuant to subdivision (2) is not effective against such parties reasonably relying upon such certificate until the passage of ninety (90) days from the filing of the amendment to the certificate of limited partnership. Notwithstanding the preceding, such limited partner or former limited partner will continue to be liable for all of the debts, obligations and liabilities of the limited partnership incurred by the limited partnership while such limited partner assumed such liability, including, if applicable, the above described 90 day period.

(d)(1) Notwithstanding any provision of law to the contrary, the application of registered limited liability partnership may provide that one (1) or more specifically identified partners, as named in the application, will be personally liable for all of the debts, obligations and liabilities of the registered limited liability partnership to the same extent as a general partner of a general partnership; provided, that:

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(A) In order to be effective, each partner so identified must sign the application of registered limited liability partnership, or an amendment to the application of registered limited liability partnership containing this provision and such signature must be notarized. The application or amendment must contain the following two sentences in all capitalized letters: "THE EXECUTION AND FILING OF THIS DOCUMENT WILL CAUSE SUCH PARTNER TO BE PERSONALLY LIABLE FOR THE DEBTS AND OBLIGATIONS OF THE LIMITED LIABILITY PARTNERSHIP TO THE SAME EXTENT AS A GENERAL PARTNER OF A GENERAL PARTNERSHIP. PLEASE CONSULT YOUR ATTORNEY." The amendment or application may provide that it is only effective if all partners make and maintain such an election. In such case the application of registered limited liability partnership must affirmatively identify each partner of the limited liability partnership and state that such persons constitute all partners;

(B) Each such partner shall continue to be personally liable for all of the debts, obligations and liabilities of the partnership to the same extent as a general partner of a general partnership until (i) such partner withdraws from the partnership and the withdrawal is recorded with the application at the Secretary of State's Office or (ii) the application of registered limited liability partnership is amended to strike such partner's name as a partner electing joint and several liability or, if the application of limited liability partnership provides that all partners must elect joint and several personal liability for all of the debts, obligations and liabilities of the partnership if any are to be so liable, an

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amendment striking one partner who has not withdrawn and continues to be a partner shall strike all partners. Such document must be executed by the partner desiring to cease being so liable and promptly delivered to all remaining partners who are identified in the application of registered limited liability partnership as being jointly and severally personally liable for the debts, obligations and liabilities of the partnership to the same extent as a general partner of a general partnership.

(2) Such limited liability partnership must have a written partnership agreement that sets forth in reasonable detail (i) the purpose of the partnership, (ii) the identity of each partner; (iii) the scope of authority within the partnership of one or more of the partners to incur debt or other obligations in the absence of partner approval; (iv) the fact that each partner electing to have joint and several liability will be liable for the all debts and obligations of the partnership however arising (contract, tort, or otherwise) or from the actions of the other partners in connection with the partnership's business or other activity; (v) the fact that each partner has the power to revoke his or her election to have joint and several unlimited liability and remain a partner; and (vi) the terms and conditions under which one or more partners may be removed or the partnership dissolved and terminated.

(3) A partner who is identified in the application of a limited liability partnership as being personally liable, always has the power but not necessarily the right, to revoke the election for joint and several liability for the partnership's debts and obligations by filing an amendment to the application of limited liability partnership stating that such partner

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has revoked his or her election to be liable for the debts and obligations of the partnership and will not be liable for any future debts, obligations and liabilities of the partnership. Such amendment to the application shall be effective immediately except as provided in item (4) below.

(4) An amendment to the application of a limited liability partnership filed pursuant to §61-1-143 is not effective against such parties reasonably relying upon such application until the passage of ninety (90) days from the filing of the amendment to the application of limited liability partnership. Notwithstanding the preceding, such partner or former partner will continue to be liable for all of the debts, obligations and liabilities of the partnership incurred by the partnership while such partner assumed such liability.

(e)(1) Notwithstanding any provision of law to the contrary, the articles of a limited liability company may provide that one (1) or more specifically identified members, as named in the articles, will be personally liable for all of the debts, obligations and liabilities of the limited liability company and, if so, each such specifically identified member shall be liable to the same extent as a general partner in a general partnership; provided, that:

(A) In order to be effective, each member so identified must sign the articles, or an amendment to the articles containing this provision. The amendment or articles may provide that it is only effective if all members make and maintain such an election. In such case the articles must affirmatively identify each member and state that such persons constitute all of the members of the limited liability company;

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(B) Each such member shall continue to be personally liable for all of the debts, obligations and liabilities of the limited liability company to the same extent as a general partner of a general partnership until (i) the member withdraws from the limited liability company or (ii) the articles are amended to strike such member's name as a member electing joint and several liability or, if the articles provide that all members must elect joint and several personal liability for all of the debts, obligations and liabilities of the limited liability company if any are to be so liable, an amendment striking one member who continues to be a member shall strike all members. Such document must be executed by the member desiring to cease being so liable and promptly delivered to any remaining members who are identified in the articles as personally being jointly and severally liable for the debts, obligations and liabilities of the limited liability company.

AND FURTHER AMEND by deleting section 74 of the bill as introduced in its entirety and substituting instead the following:

SECTION 74. Tennessee Code Annotated, Section 67-4-2106, is amended by adding the following new subsections:

() For purposes of the franchise tax levied by this part, a business entity shall be classified as a corporation, partnership, or other type business entity, consistent with the way the entity is classified for federal income tax purposes. Except for unitary groups of financial institutions, business entities that have been required or permitted to file franchise tax returns on a combined, consolidated or separate accounting basis under

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Section 67-4-2112, and qualified subchapter S subsidiaries with an election in effect under Section 1361(b)(3)(B)(ii) of the Internal Code or qualified REIT subsidiaries described in Section 856(i) of such code, each taxpayer shall be considered a separate and single business entity for Tennessee franchise tax purposes and shall file its Tennessee franchise tax return on a separate entity basis reflecting only its own business activities even though it may have filed a consolidated federal income tax return with other members of its unitary group.

() Notwithstanding any provision of law to the contrary, qualified subchapter S subsidiaries with an election in effect under Section 1361(b)(3)(B)(ii) of the Internal Revenue Code and qualified REIT subsidiaries described in Section 856(i) of said Code, which are disregarded for federal income tax purposes and are included in the federal tax return filed by the owner, shall be disregarded for Tennessee franchise tax purposes and shall be included in the franchise tax return filed by the owner. In the event that a corporation is only partly owned, directly or indirectly, by a real estate investment trust, such entity shall be considered a separate entity from its owners for purposes of the tax imposed by this part but shall be subject to the franchise tax only to the extent that it is owned by entities that are not real estate investment trusts. Such an entity shall file a franchise tax return and shall compute its franchise tax on all its business operations; provided that, to determine the amount due and payable, the franchise tax so computed shall then be multiplied by the percentage of ownership by entities that are not real estate investment trusts.

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() Notwithstanding any provision of law to the contrary, in the event that an entity treated as a partnership for federal income tax purposes is only partly owned, directly or indirectly, by a real estate investment trust, such entity shall be considered a separate entity from its owners for purposes of the tax imposed by this part but shall be subject to the franchise tax only to the extent that it is owned by entities that are not real estate investment trusts. Such a partnership shall file a franchise tax return and shall compute its franchise tax on all its business operations; provided that, to determine the amount due and payable, the franchise tax so computed shall then be multiplied by the percentage of ownership by entities that are not real estate investment trusts. Any franchise tax paid pursuant to this subsection by a partnership that is, directly or indirectly, partly owned by a real estate investment trust shall be recoverable, by off-set or otherwise, from the partner(s) who are not real estate investment trusts.

AND FURTHER AMEND by deleting in its entirety section 76 of the bill as introduced and substituting instead the following:

SECTION 76. Tennessee Code Annotated, Section 67-4-2108(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) Except for entities treated as partnerships for federal income tax purposes (excluding S corporations), the measure of the tax hereby levied shall in no case be less than the actual value of the real or tangible property owned or used in Tennessee, excluding exempt inventory. Notwithstanding any provision of law to the contrary, the sole franchise tax measure for entities treated as partnerships for federal income tax purposes (excluding S corporations), which are directly or indirectly less than twenty

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percent (20%) owned by corporations (including S corporations), shall be the lesser of net worth computed in accordance with the provisions of section 67-4-2106, or fifty percent (50%) of the franchise tax minimum measure computed in accordance with this section.

AND FUTHER AMEND by deleting in its entirety section 86 of the bill as introduced and by substituting instead the following:

SECTION 86. (a) Except as provided in subsections (b) and (c), if any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

(b) If the Tennessee Income Tax Law of 1999 or the application thereof to all persons is held invalid, then:

(1) sections 2, 18, 26 and 29 of the bill as introduced are declared to be invalid and void;

(2) all of Tennessee Code Annotated, Title 67, Chapter 6, Parts 2 and 3, as it existed immediately before the effective date of section 2 of the bill as introduced shall be revived in its entirety on the first day of the month immediately succeeding the effective date of the court's order; and

(2) all of Tennessee Code Annotated, Title 67, Chapter 2, Part 1, as it existed immediately before the effective date of section 29 of the bill as

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introduced, shall be revived in its entirety effective January 1 of the year of the effective date of the court's order.

(c) if the Inheritance Tax of 1999 or the application thereof to all persons is held invalid, then all of Tennessee Code Annotated, Title 67, Chapter 8, Parts 2 through 4, as it existed immediately before the effective date of section 30 of the bill as introduced shall be revived in its entirety immediately upon the effective date of the court's order.

AND FURTHER AMEND by deleting in its entirety section 88 of the bill as introduced and by substituting instead the following:

SECTION 88. (a) Sections 2 and 18 of the bill as introduced shall take effect on March 1, 2000, the public welfare requiring it.

(b) Section 26 of the bill as introduced shall take effect on May 1, 2000, and shall apply to distributions made on or after that date, the public welfare requiring it.

(c) Sections 28 and 82 of the bill as introduced shall take effect on January 1, 2000, the public welfare requiring it.

(d) Section 29 of the bill as introduced shall take effect on January 1, 2000, but the provisions of Title 67, Chapter 2, Part 1, shall remain in effect for tax years ending on or before December 31, 1999, the public welfare requiring it.

(e) Sections 30, 31, 32, 33, 35 and 36 of the bill as introduced, shall take effect on January 1, 2000, and shall apply to decedents dying on or after January 1, 2000, the public welfare requiring it. The provisions of Tennessee Code Annotated, Title 67, Chapter 8, Parts 2 through 4, are repealed effective January 1, 2000, but shall continue

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to apply to decedents dying on or before December 31, 1999, and to the administration of such decedents' estates, the public welfare requiring it.

(f) Sections 34, 37 and 38 of the bill as introduced, shall take effect upon becoming law and shall apply to all estates open at that time, the public welfare requiring it.

(g) Sections 39 through 43 of the bill as introduced shall take effect on January 1, 2000, and shall apply to gifts made on or after that date, the public welfare requiring it.

(h) Sections 50, 54, 57 through 65, 69 through 71, 74, 76 through 81, and 83 of the bill as introduced, shall take effect on January 1, 2000, and shall apply to tax years beginning on or after that date, the public welfare requiring it.

(i) Sections 45 through 49, 51, 52, 53, 55, 56, 66, 67, 68, 72, 73 and 75 of the bill as introduced, shall take effect upon becoming law, and shall apply to tax years beginning on or after July 1, 1999, the public welfare requiring it.

(j) Section 44 of the bill as introduced shall take effect on January 1, 2000, and shall apply to tax years beginning on or after that date, except that subsection (a) of section 67-2-236 of the Tennessee Income Tax Law of 1999, shall take effect upon becoming law, the public welfare requiring it.

(k) All other sections of this Act shall take effect upon becoming law, the public welfare requiring it.